IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2007

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition Nos.5829 and 6748 of 1999

K.Hariharan .. Petitioner in W.P.No.5829 of 1999
L.Gopinathan .. Petitioner in W.P.No.6748 of 1999

vs.

1. The Vice Chancellor,
   Bharatidasan University
   Trichy

2. The Registrar
   Bharatidasan University
   Trichy

3. The Principal
   Arignar Anna Govt. Arts College
   Musiri, Trichy .. Respondents in both the writ petitions

The writ petitions have been filed under Article 226 of the Constitution of India praying for the issuance of Writs of Certiorarified Mandamus to call for the records relating to the communication No.NAKA/1001/U/98, dated 4.2.1999, No.NAKA/1001/U/98 dated 16.3.1999 and No.NAKA/1001/U/98 dated 23.3.1999 issued by the third respondent and to quash the same and to direct the respondents to permit the petitioners to pay the examination fees and to appear for the examination to be held during April-May 1999.

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For petitioners : Mr.U.Karunakaran
For respondents : Mr.V.Govardhanan
for R1 and R2
Mr.V.Manoharan
Government Advocate for R3

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C O M M O N O R D E R

Heard Mr.U.Karunakaran, the learned counsel appearing for the petitioners and Mr.V.Govardhanan, the learned counsel appearing for the first and second respondents and Mr.V.Manoharan, the learned Government Advocate appearing for the third respondent.

2. It is stated by the petitioners that they had joined the Bachelor of Arts Degree Course in Economics in the third respondent College during the academic year 1996-97. The petitioners were due to write the final Semester Examinations, in the third year of their degree course, during the months of April-May 1999. On 04.02.1999, elections were being conducted in the Department of Economics to elect the office bearers. The petitioners and some others had requested the head of the department not to conduct the department elections at the fag end of the year. During the elections, disputes had arisen amongst the supporters of the various candidates resulting in creation of serious animosity. As a consequence, a criminal complaint had been registered before the Sub-Inspector of Musiri Police Station.

3. The petitioners have further stated that, based on the criminal complaint given by one Nandakumar, the Sub-Inspector of Musiri Police Station had registered a case, under Sections 147,323 and 247-C of the Indian Penal Code. Based on the complaint, the third respondent had issued a suspension order to the petitioners and three other students, without furnishing a copy of the complaint and without conducting any enquiry. In the suspension order, it had been mentioned that one Hariharan, along with other students, had assaulted Nandakumar and that the petitioners had only consumed some alcohol. The third respondent had directed the petitioners not to enter the College premises till the enquiry that was to be initiated against them was completed. On 11.2.1999, the third respondent had issued a notice directing the petitioners to appear before the Disciplinary Enquiry Committee, on 18.2.1999. The petitioners had appeared before the Disciplinary Enquiry Committee and had given their oral and written explanations denying the allegations made against them.

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4. It is further stated that the members of the Enquiry Committee had advised the petitioners to accept the charges so that a lenient view could be taken in their favour. Even though the petitioners had denied the allegations made against them by the complainant by way of written submissions, the third respondent had issued a communication No.Na.Ka./1001/U/98, dated 16.3.1999, informing the petitioners that the charges against them, with regard to their consuming of alcoholic drinks, on 4.2.1999, had been proved.

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5. It is stated by the petitioners that by a non-speaking summary order, the petitioners were asked to show cause, on or before 23.03.1999, as to why they should not be expelled from the College. Following the communication, dated 16.3.1999, the petitioners had met the members of the Enquiry Committee and requested them to revoke the suspension order and to permit the petitioners to write the ensuing examinations. Since the members of the Enquiry Committee had assured that if the petitioners gave a signed letter, regretting for the incident and also undertaking that they would not involve themselves in any such incident in future, the petitioners would be permitted to write the final examinations and the suspension order passed against them would be revoked.

6. Based on the assurance given by the members of the Enquiry Committee and on the advice of the third respondent, the petitioners had submitted the letters signed by them to the Enquiry Committee. Thereafter, on 23.3.1999, the third respondent had issued another communication No.Na.Ka./1001/U/98, dated 23.3.1999, informing the petitioners that their Transfer Certificates had been sent to the first respondent University, without assigning any reason for the said decision.

7. It is further stated by the petitioners that it is not clear from the impugned order as to whether it amounts to imposing a punishment by way of expulsion from the College. Due to the order of suspension, the petitioners could not attend the College and therefore, they could not get the required attendance to appear in the examination held in the months of April-May 1999. Further, the third respondent had not permitted the petitioners to pay the examination fee for the final Semester examinations. Even though some of the other persons, on whom criminal proceedings had been lodged, were allowed to write the examinations, the petitioners had been denied such opportunity. The punishment of suspension imposed on the petitioners and their expulsion from the College thereafter, are disproportionate to the alleged misconduct. Further, the impugned orders had been passed without following the principles of natural justice. Even though the petitioners have been having a good track record till the false allegations had been made against them, the third respondent had not taken a sympathetic view in favour of the petitioners. The impugned orders had been issued on the basis of a false complaint and therefore, it is liable to be quashed.

8. The learned counsels appearing for the respondents had submitted that the petitioners do not deserve any sympathy as they have been found to have indulged themselves in serious misconduct, as found by the Enquiry Committee constituted to go into the charges against them.

9. From the records available before this Court, it is found that an enquiry committee had been constituted to conduct an enquiry

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as the charges alleged against the petitioners were serious in nature. An enquiry has been conducted by the enquiry committee, after issuing show cause notices to the concerned persons. The petitioners had submitted letters to the enquiry committee regretting for the incidents that had taken place, based on which the disciplinary action was taken against them. Once the persons facing the charges have been given a reasonable opportunity to defend themselves against the charges and if the enquiry committee comes to a conclusion that the charges had been proved, it is not for this Court to interfere with the findings or its conclusions. Further, it is not for this Court to prescribe the punishment that is to be meted out to the students who have been found to have committed the misconduct.

10. The learned counsel appearing on behalf of the petitioners had prayed for sympathy being shown towards the petitioners as their future would be in jeopardy, if they are not permitted to complete their studies in the third respondent college. Though this Court is well aware of the consequences that may follow due to the punishment imposed on the petitioners, there cannot be misplaced sympathy as that would be a wrong signal sent in encouraging indiscipline in institutions of learning. It is clear from the decision of the Supreme Court in CONTROLLER OF EXAMINATIONS Vs. G.S.SUNDER (1993 Supp (3) S.C.C. 82), that in the matter of enforcement of discipline in educational institutions the Courts of law should be slow in interfering.

11. In MAHARASHTRA STATE BOARD OF S. & H.S. EDUCATION Vs. K.S.GANDHI ((1991) 2 S.C.C. 716), the Supreme Court has held that applicability of the principles of natural justice acts as a deterrent to arbitrary decisions made in flagrant infraction of fair play. It is not a rule of thumb or a strait-jacket formula as an abstract proposition of law.

12. It goes without saying that the primary object of all educational institutions are to impart quality education, as well as character building in their students to enable them to emerge as good citizens in future. Unless strict discipline is maintained in the institutions of learning, the ultimate object of imparting quality education and of character building would be lost, leading to disastrous consequences.

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13. In such view of the matter, this Court is of the considered view that it is best left to the authorities concerned to find out and to decide as to whether the students concerned had indulged themselves in causing the misconduct as alleged and also to choose the punishment to be imposed on them.

14. At this stage of hearing of the writ petition, the learned counsel appearing on behalf of the petitioners had submitted that the

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petitioners may be permitted to make appropriate representations to the authorities concerned, with regard to the charges framed against them, the findings arrived thereon by the enquiry committee and the punishment imposed on the petitioners so that it may be possible for the authorities to opt for a lenient view in the matter, if they are so persuaded, in the given facts and circumstances of the case.

15. In view of the above submissions it is observed that it is open to the petitioners to submit the necessary representations, as they deem fit, to the authorities concerned, with regard to the alleged charges and the punishment imposed on them. On such representations being made, the concerned authorities may consider the same and pass appropriate orders thereon, expeditiously, keeping in view the facts and circumstances of case.

The writ petitions are disposed of accordingly. No costs.

sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Vice Chancellor,
   Bharatidasan University
   Trichy

2. The Registrar
   Bharatidasan University, Trichy

3. The Principal
   Arignar Anna Govt. Arts College
   Musiri, Trichy

+1cc to M/s Row and Reddy,Advocates, SR.No.74435

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